

**MINUTES OF
FAIRFAX COUNTY PLANNING COMMISSION
WEDNESDAY, DECEMBER 5, 2013**

PRESENT: Frank A. de la Fe, Hunter Mill District
Jay P. Donahue, Dranesville District
Earl L. Flanagan, Mount Vernon District
Janet R. Hall, Mason District
Janyce Hedetniemi, At-Large
James R. Hart, Commissioner At-Large
Ellen J. Hurley, Braddock District
Kenneth A. Lawrence, Providence District
John L. Litzenberger, Jr., Sully District
Peter F. Murphy, Springfield District
Timothy J. Sargeant, Commissioner At-Large

ABSENT: None

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The meeting was called to order at 8:20 p.m. by Chairman Peter F. Murphy, in the Board Auditorium of the Fairfax County Government Center, 12000 Government Center Parkway, Fairfax, Virginia 22035.

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COMMISSION MATTERS

Commissioner Lawrence announced that the Planning Commission's Policy and Procedures Committee had met earlier this evening. He said that the materials on *Fairfax Forward*, a new process for managing and reviewing the Comprehensive Plan, would soon be posted on the County's website at <http://www.fairfaxcounty.gov/dpz/fairfaxforward.htm>. He added that a section on Frequently Asked Questions would be provided and public comments would be sought.

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Chairman Murphy announced that after 16 years on the Planning Commission, At-Large Commissioner Walter Alcorn had decided not to accept reappointment to the Commission; therefore, tonight's meeting would be his last. He commended Commissioner Alcorn's service as Vice Chairman of the Commission and as Chairman of the Tysons Corner Committee, the latter for which he was awarded the *2011 Fairfax County Citizen of the Year* by the Fairfax County Federation of Citizens' Associations. On behalf of the Planning Commission, Chairman Murphy thanked him for his years of service and wished him luck in his future endeavors.

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Chairman Murphy announced that Kenneth Lawrence, Providence District representative, and Jay Donahue, Dranesville District representative, had been reappointed to the Planning Commission and would be sworn in at the Commission's meeting on Thursday, January 10, 2013. On behalf of the Planning Commission, Chairman Murphy expressed appreciation to the Commission Office and Cable Programming staff, as well as staff from the Departments of Planning and Zoning, Transportation, Park Authority, and Public Works and Environmental Services. He further commended Kara DeArrastia, Clerk to the Planning Commission, and Barbara Lippa, Executive Director, Planning Commission Office, for their work with the Tysons Corner Committee.

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Commissioner Hart announced that the Commission's Environment Committee would meet on Thursday, January 10, 2013, at 7:00 p.m., in the Board Conference Room of the Fairfax County Government Center to receive an overview of electric vehicle charging concepts and the MITRE Corporation's report on electric vehicle charging infrastructure recommendations to Fairfax County.

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Commissioner Flanagan MOVED THAT THE PLANNING COMMISSION (AGAIN) DEFER THE DECISION ONLY ON RZ 2012-MV-004, 8921 PROPERTIES, LLC, TO A DATE CERTAIN OF JANUARY 10, 2013, WITH THE RECORD REMAINING OPEN FOR WRITTEN AND ELECTRONIC COMMENTS.

Commissioner Sargeant seconded the motion which carried unanimously.

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FS-P12-24 – CRICKET COMMUNICATIONS, 3300 Gallows Road

Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION CONCUR WITH STAFF'S FINDINGS IN THE DETERMINATION THAT THE COMMUNICATIONS FACILITY COLLOCATION PROPOSED BY CRICKET COMMUNICATIONS, INCORPORATED, AND LOCATED ON THE WATER TANK ON THE PROPERTY OF FAIRFAX HOSPITAL, 3300 GALLOWES ROAD, FALLS CHURCH, IS SUBSTANTIALLY IN ACCORD WITH THE RECOMMENDATIONS OF THE ADOPTED COMPREHENSIVE PLAN AND SHOULD BE CONSIDERED A "FEATURE SHOWN," PURSUANT TO VIRGINIA CODE SECTION 15.2-2232, AS AMENDED.

Commissioner de la Fe seconded the motion which carried unanimously.

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FSA-33-1 – SPRINT, 3211 Jermantown Road

Chairman Murphy MOVED THE APPROVAL OF THE CONSENT AGENDA ITEM.

Without objection, the motion carried unanimously.

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FS-V12-21 – ASTRO SYSTEMS, INC., 7956 Twist Lane

Commissioner Flanagan MOVED THAT THE PLANNING COMMISSION FIND THAT FS-V12-21 SATISFIES THE CRITERIA OF LOCATION, CHARACTER, AND EXTENT, AS SPECIFIED IN SECTION 15.2-2232 OF THE *CODE OF VIRGINIA*, AS AMENDED.

Commissioner Litzenberger seconded the motion which carried unanimously.

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2232-B12-8 – ELEVEN OAKS LLC, 10515 School Street

Commissioner Hurley MOVED THAT THE PLANNING COMMISSION ADOPT AS A "FEATURE SHOWN," 2232-B12-8, THE SANITARY SEWER PUMP STATION AT ELEVEN OAKS.

Commissioner Migliaccio seconded the motion which carried unanimously.

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7940 JONES BRANCH DRIVE – MRP TYSONS, LLC (ARCHITECTURAL DRAWINGS)
(Providence District)

Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION APPROVE THE ARCHITECTURAL DRAWINGS SUBMITTED BY MRP TYSONS, LLC, FOR 7940 JONES BRANCH DRIVE.

Commissioner de la Fe seconded the motion which carried unanimously.

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RZ 2012-DR-017 – CHRISTOPHER AND KAREN BARTH (Decision Only)
(Public Hearing held on November 29, 2012)

Commissioner Donahue MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF RZ 2012-DR-017, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED NOVEMBER 19, 2012.

Commissioners Alcorn and Litzenberger seconded the motion which carried unanimously.

Commissioner Donahue MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A WAIVER OF CONSTRUCTION OF THE SIDEWALK AND ROAD FRONTAGE IMPROVEMENTS ON REDD ROAD.

Commissioners Litzenberger and Alcorn seconded the motion which carried unanimously.

Commissioner Donahue MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A WAIVER OF CONSTRUCTION OF ROAD FRONTAGE IMPROVEMENTS ON IDYLWOOD ROAD.

Commissioner Litzenberger seconded the motion which carried unanimously.

Commissioner Donahue MOVED THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A WAIVER OF THE TRAIL REQUIREMENT ALONG IDYLWOOD ROAD, SUBJECT TO THE CONSTRUCTION OF A FIVE-FOOT WIDE CONCRETE SIDEWALK OR A SIX-FOOT WIDE ASPHALT PATH, IN ACCORDANCE WITH THE PUBLIC FACILITIES MANUAL, ACROSS THE PROPERTY'S IDYLWOOD ROAD FRONTAGE.

Commissioner Litzenberger seconded the motion which carried unanimously.

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GREEN BUILDING COMPREHENSIVE PLAN POLICY REVIEW HEARING
AUTHORIZATION

Commissioner Hart MOVED THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS AUTHORIZE THE ADVERTISEMENT OF A POLICY PLAN AMENDMENT TO IMPLEMENT THE RECOMMENDATIONS IN THE REVISED GREEN BUILDING COMPREHENSIVE PLAN POLICY REVIEW STRAWMAN II DOCUMENT, DATED DECEMBER 3, 2012, AND AUTHORIZE THE SETTING OF PUBLIC HEARINGS BEFORE THE COMMISSION AND THE BOARD FOR THIS AMENDMENT. He further MOVED THAT THE COMMISSION REQUEST THAT THE ADVERTISEMENT LANGUAGE BE REVIEWED BY THE COUNTY ATTORNEY TO ENSURE SUFFICIENT FLEXIBILITY TO PERMIT THE MAXIMUM FREEDOM FOR THE COMMISSION AND BOARD TO CONSIDER AND INCORPORATE APPROPRIATE REVISIONS TO THE ADVERTISED TEXT BASED UPON PUBLIC AND INDUSTRY COMMENTS.

Commissioner Lawrence seconded the motion which carried unanimously.

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FDPA 82-P-069-09-09 – THE SHOPS AT FAIR LAKES LP (Decision Only)
(Public Hearing held on November 29, 2012)

Commissioner Murphy MOVED THAT THE PLANNING COMMISSION APPROVE FDPA 82-P-069-09-09, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED DECEMBER 4, 2012.

Commissioner Migliaccio seconded the motion which carried by a vote of 11-1, with Commissioner Lawrence opposed.

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ORDER OF THE AGENDA

Secretary Hall established the following order of the agenda:

1. RZ/FDP 2012-SU-010 – NORTHERN VIRGINIA HEALTH INVESTORS, LLC
2. RZ/FDP 2012-BR-003 – TARIQ KHAN
3. CSP 2003-PR-022 – PULTE HOME CORPORATION
4. SE 2012-HM-009 – INSITE REAL ESTATE INVESTMENT PROPERTIES, LLC

This order was accepted without objection.

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RZ 2012-SU-010 AND FDP 2012-SU-010 – NORTHERN VIRGINIA HEALTH INVESTORS, LLC – Appls. to rezone from I-5 to PRM to permit a primary use of age-restricted multi-family residential (100 units of independent living) and secondary uses of a medical care facility (60 units of assisted living) and a medical care facility (166-bed skilled nursing facility) with a total FAR of 0.67 on 8.46 acres; approval of the conceptual and final development plans; and a waiver #009329-WBMP-001-1 to permit the location of underground storm water management facilities in a residential area. Located on the W. side of Centreville Road approx. 150 ft. N. of its intersection with McLearen Road on a total of 8.46 ac. of land
Comp. Plan Rec: Office or Optional Uses. Tax Map 24-4 ((1)) 11B.
SULLY DISTRICT. JOINT PUBLIC HEARING.

Jonathan Puvak, Esquire, Walsh, Colucci, Lubeley, Emrich & Walsh, PC, reaffirmed the affidavit dated October 31, 2012. There were no disclosures by the Commissioners.

Brent Krasner, Zoning Evaluation Division, Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. He noted that staff recommended denial of the applications noting that the two facilities, as currently proposed, were too intense

for the site, making it inconsistent with the goals for the Dulles Suburban Center and, therefore, not consistent with the recommendations of the Comprehensive Plan.

In response to questions from Commissioner Litzenberger, Mr. Krasner explained that staff knew about an endorsement by the West Fairfax County Citizens Association (WFCCA) for the applications; however, staff believed that the outstanding issues in the proposal must be resolved before recommending approval. In addition, he explained that there were issues with the general design/footprint of the site, as well as the proffers, particularly Proffer Number 4, Landscaping, Barriers and Open Space, and Proffer Number 8, Sustainable Design/Green Building Practices. Mr. Krasner noted that there was concern with the language in these proffers regarding the berms, retaining wall, and the proposed green building techniques. He also said that the applicant provided no information regarding the covered walkway connecting the two buildings, noting staff's concern about it being too narrow and inadequate to fulfill its purpose. In addition, he said that more open space could be provided throughout the site if the applicant were more flexible with the site layout.

Answering questions from Commissioner Hart, Mr. Krasner confirmed that only a P-District could accommodate the proposed uses, adding that the applicant would be expected to adhere to the requirements of the P-District. He also explained that the proposed open space was inadequate and said that additional shading and plantings were needed throughout the site. He further noted that the proposed walkway extended around the periphery of the property and should be revised to better accommodate the residents.

Responding to questions from Commissioner Lawrence, Mr. Krasner reiterated that additional shading and planting should be provided in the open space, adding that additional open space could be acquired by reducing the amount of parking space.

In reply to questions from Commissioner Sargeant, Mr. Krasner explained that the applicant had not submitted detailed information/plans on the covered walkway and added that it had been proposed in response to citizen requests. With regard to the underground stormwater detention, he said that staff had no concerns with it and was more concerned about the amount of proposed parking. When Commissioner Sargeant noted that the language in Proffer Number 8 was broad, Mr. Krasner concurred and said that it needed to be more specific, adding that some of the provisions might be inappropriate for this application. He also said that staff would prefer that the applicant provide one specific LEED program, either LEED for New Construction or LEED for Healthcare, rather than proposing a mix of techniques to fit the proposed use.

Referencing page 1 of the staff report, Commissioner Hall expressed concern about the language regarding memory-impaired residents.

Answering questions from Commissioner Flanagan, Mr. Krasner reiterated his earlier responses regarding the proposed design of the site and the footprint of the buildings, the outdoor recreation, and the proposed parking. He added that moving some of the surface parking underground would provide more open space.

In response to questions from Commissioner Hurley, Mr. Krasner stated that future residents could access the adjacent shopping center at the traffic light at Centreville and McLearen Roads. He noted that residents could access the Rachel Carson Middle School property at the northern end of the subject site. In addition, he said that the applicant had also suggested a potential trail connection to the nearby Creekside community.

Replying to questions from Commissioner Donahue, Mr. Krasner reiterated that the staff's main concern was the site's overall design. He also expressed concern that the covered walkway might be too narrow and might not be able to accommodate its designated uses. In addition, he clarified that staff wanted a visual connection between the two proposed buildings.

Mr. Puvak explained that the Northern Virginia Health Investors, LLC (NVHI) had been formed as a subsidiary of Smith/Packett Med-Com ("the applicant"), which had developed and/or acquired over 150 senior health and housing facilities over the past 30 years. He added that the applicant had purchased facilities from Inova and would provide new state-of-the-art facilities while Inova retained the underlying real estate. He pointed out that this proposal would allow the nursing facility beds to be relocated to a new facility and remain in Fairfax County. He stated that the applicant would construct two buildings on the subject site, a four-story independent/assisted living facility, and a two-story nursing facility that would provide both short- and long-term care.

When Mr. Puvak said that there would be no distinction in care for different types of memory impairments, Commissioner Hall expressed concern that certain memory impairments, such as Alzheimer's Disease, had specific requirements. For example, patients might need to be able to move about freely; therefore, security measures must be in place to prevent them from wandering off-site. Mr. Puvak reiterated the applicant's 30 years' experience in the development and construction of senior facilities and ability to provide such service.

Mr. Puvak noted that the applicant had worked diligently to fulfill the objectives of the Planned Residential Mixed (PRM) District and Dulles Suburban Center while serving the needs of the anticipated residents. Addressing staff concerns regarding the application's compatibility to the surrounding properties, Mr. Puvak pointed out that this area did not have a unified development theme and was surrounded by a variety of industrial and commercial properties. He described the proposed use as transitional with institutional, residential, and commercial, and said that it would improve the existing site. Mr. Puvak also noted that the PRM Use District was the only choice for the proposed blend of uses since no existing conventional zoning could accommodate it. He described the proposed buildings and architecture, adding that a covered walkway would connect them. In addition, he pointed out that the applicant would provide 35 percent open space, exceeding the Zoning Ordinance requirement of 20 percent. In addition, he said there would be open space with shaded seating areas, active and passive recreational opportunities, landscaped courtyards, and described several other proposed amenities. As for affordability, Mr. Puvak noted that the applicant offered "unbundled" care in that residents would not be charged upfront or required to pay a buy-in fee. He added that independent and assisted living residents would select and pay for the level of care best suited to meet their needs, thereby lowering the cost of housing

while providing flexibility without financial penalty should a resident leave. Mr. Puvak pointed out that the applicant had committed (in Proffer Number 10, Affordable Housing) to provide six percent of the total number of independent living units as affordable dwelling units, and to maintain four percent of the assisted living units for residents eligible for the Virginia Department of Social Services Auxiliary Grant Program. He described the covered walkway and said that the applicant would provide more detailed plans to staff. He also described the berm, noting that it would be four feet wide and would include landscaping, shrubs, and shade and ornamental trees. He noted that the site was designed with an internal sidewalk network, adding that the applicant had proffered to construct a sidewalk with trail connections to Rachel Carson Middle School and the nearby Creekside townhouse community. He added that the proposed uses would have little traffic impact, provide a shuttle van service for the residents and, upon approval by the Fairfax County and Virginia Departments of Transportation (FCDOT and VDOT, respectively), a bus shelter along the Centreville Road frontage. Mr. Puvak added that the proposed uses would have little traffic impact, noting that the applicant would provide a shuttle van service for the residents and, upon approval by the Fairfax County and Virginia Departments of Transportation, a bus shelter along the Centreville Road frontage. Mr. Puvak pointed out that there was only one access to the site which was fixed, and noted that the applicant worked diligently to gain the support of both FCDOT and VDOT. He said that although the proposal had not received the support of County staff, it had received recommendations of approval from the WFCCA Land Use Committee and the Sully District Council. In addition, he said that a favorable recommendation would allow the applicant to provide a much-needed senior housing facility and serve the residents of Fairfax County and keep skilled nursing beds in the County.

In response to a question from Commissioner Migliaccio, Mr. Puvak said that the language in Proffer Number 8, Sustainable Design/Green Building Practices, would be refined, adding that he believed the application would satisfy the requirements for ENERGY STAR[®] or LEED certification.

Responding to a question from Commissioner Litzenberger, Mr. Puvak confirmed that the applicant would list in its proffers specific vegetation/plantings to be provided in berm so that it would be similar to those in the nearby Dulles Discovery development.

When Commissioner Litzenberger asked about the retaining wall, Mr. Puvak explained that its height was not determined by the depth of the garage or the bedrock on the site. Paul B. Johnson, President, Charles P. Johnson & Associates, Inc., further explained that the retaining wall would serve to stabilize the site. He also affirmed that the applicant would specify the type of materials for the wall in the proffers.

When Commissioner Litzenberger expressed concern about the phrase, “as determined by the Fire Marshal,” in Development Condition Number 4, regarding the covered walkway, Mr. Puvak assured him that it would be provided in accordance with the requirements set forth in the Virginia Statewide Fire Prevention Code.

In reply to questions from Commissioner Flanagan, Mr. Puvak explained that while subject applications had only been submitted to County staff in March 2012, the planning had taken several years. He also confirmed that the applicant had submitted five amendments to the original submittal to incorporate suggestions made by staff and citizens.

Commissioner Lawrence suggested modifying the site layout by turning the skilled nursing facility around, thereby providing more usable open space. He added that because the site would become home for many citizens, the usable open space would be paramount. Mr. Puvak stated that the applicant had reviewed such a modification; however, the impacts on the internal operations would be too great. He also noted that traffic circulation would be affected, as would the access for emergency vehicles.

Chairman Murphy called the one listed speaker and recited the rules for public testimony.

Marlene Blum, Chairman, Fairfax County Health Care Advisory Board (HCAB), 2417 Luckett Avenue, Vienna, explained that the HCAB had held a public hearing in September 2012 to review this application and forwarded the resulting recommendations to the Planning Commission and Board of Supervisors ("the Board"). She noted that because assisted living and skilled nursing facilities provided different services to separate populations and were regulated differently, the HCAB had also requested that the applicant submit separate responses to its review criteria. She noted that the HCAB had concurrently submitted two separate recommendations to the Board. She stated that it recommended that the Board approve the application for the development of the assisted living facility, The Crossings at Chantilly; however, she said that the HCAB had serious concerns about the skilled nursing facility, therefore recommending that the Board impose a development condition before allowing the applicant to proceed. Ms. Blum noted that the Zoning Ordinance ("the Ordinance") required that Special Exception applications for medical care facilities must be referred to the HCAB for a recommendation and report, and must solicit information and comment from health care service providers and consumers as appropriate. In addition, the HCAB and Board must consider other criteria, including the need for the facility, experience of the applicant, and qualifications of staff. In making its recommendation, Ms. Blum noted that the HCAB took several factors into consideration, including:

- the applicant's response to the HCAB's special exception/zoning review criteria;
- the applicant's responses to questions and concerns raised at our September 10, 2012, hearing and public meeting. The discussion included representatives from Harmony Senior Services, which would operate the assisted living facility, and from Commonwealth Care of Roanoke (CCR), which would operate the proposed new skilled nursing facility;
- written and oral statements from family members of current residents of Commonwealth Health and Rehabilitation Center and the Long Term Care Coordinating Council; and
- analysis from agencies and organizations with oversight of long-term care facilities in their operations.

Ms. Blum explained that NVHI would construct two new facilities, thereby replacing those it had acquired from Inova Health System. She added, however, that while NVHI would be the owner of record for the proposed independent/assisted living facility, Harmony Senior Services would operate it, while CCR would operate and manage the skilled nursing facility. She stated that once the President of Harmony Senior Services had ensured that any deficiencies would be resolved to bring the facility into compliance, the HCAB was satisfied with the proposed assisted living facility. She added that because of the need for assisted living in that area of the County, coupled with the applicant's satisfactory response to the HCAB's criteria and commitment to provide four percent of its beds to low-income residents participating in the Auxiliary Grant Program, the HCAB recommended the Board's approval for the development of the facility. Ms. Blum noted that the HCAB was very concerned about deficiencies in the quality of care currently being provided at the Commonwealth Health and Rehabilitation Center (CHRC), operating since 2010 by CCR, which would operate and manage its replacement in Chantilly. She noted that some of the deficiencies had been brought to the HCAB's attention by family members of current residents and were corroborated by Medicare's quality measures and assigned a star rating, ranging from a low of one star to a high of five stars. She stated that between August 2012 and October 2012, CCR had gone down from two stars ("below average") to one star ("much below average"). Describing the evaluation process, Ms. Blum explained that The Centers for Medicare and Medicaid Services (CMS) managed oversight for all Medicare and Medicaid programs, including nursing home care and services for the elderly and disabled. In addition, CMS contracted with each state to conduct on-site inspections to determine whether or not facilities met the minimum performance requirements, adding that in cases where a nursing home was found to be performing poorly, state inspectors might audit the facility more frequently. Furthermore, she noted that the state also investigated reported complaints. She said that the HCAB was extremely concerned that the Health Inspection Rating for CHRC, taken in March 2012, was "much below average." Ms. Blum noted that in reviewing CMS' assessment of CCR, the HCAB found that many of the deficiencies were substantive and unrelated to the building's age or infrastructure. She added that rather than alleviate the HCAB's concerns, CCR representatives contended that the Medicare inspections and ratings were not objective, and seemed unwilling to address the deficiencies. She added that although this replacement project was needed, the HCAB continued to be concerned that the proposed skilled nursing facility would not meet the appropriate performance requirements and the health and safety needs of its residents. Therefore, she explained, the HCAB recommended that the Board make it a condition of development that before NVHI and CCR, its operator, be allowed to open a new skilled nursing facility, they be required to bring the overall ratings, including Health Inspections and Staff Ratings, at the CHRC up to standards commensurate with skilled nursing facilities currently operating in the community. She noted that this commitment was reflected in Proffer Number 16, Medical Care Facility (Skilled Nursing Facility) Operation, which had been reviewed by the HCAB on November 14, 2012, and whose members agreed addressed their concerns. Ms. Blum said she believed that evidence of non-compliance with this proffer would be reported to the DPZ. She added that if the proposal, including Proffer Number 16, were approved, the HCAB would work with the Fairfax County Health Department and DPZ staff to develop appropriate procedures for monitoring the ratings and reported deficiencies, if any, of the new facility.

In response to questions from Commissioner Litzenberger, Ms. Blum confirmed that the HCAB only had concerns with regard to the skilled nursing facility and requested additional language prior to the facility's development.

Answering a question from Commissioner Alcorn, Ms. Blum confirmed that Proffer Number 16, would ensure proper care for the residents.

Commissioners Hart and de la Fe, Ms. Abrahamson, and Ms. Blum, discussed CCR's operation and management of the new skilled nursing facility. During the discussion, Commissioners acknowledged the HCAB's concern with CCR's current performance at CHRC; however, the Planning Commission could make a recommendation only on the proposed application.

In response to a question from Commissioner de la Fe, Ms. Strobel said that she would consult the County Attorney's Office regarding language in Proffer Number 16 requiring the maintenance of a minimum overall three-star Medicare rating for the proposed facility and the operation of other facilities in Virginia, both managed by the applicant. She added that the proffers would run with and be enforceable only on the subject property.

Replying to questions from Commissioner Flanagan, Ms. Strobel explained that once the operator received a Medicare rating of three stars or higher for two consecutive periods, Proffer Number 16 would effectively become null and void, meaning that the applicant would no longer have to submit copies of the State Department of Health-issued Health Deficiency Reports and the Operator's Plan of Corrective Action to the HCAB. She noted, however, that the facility would continue to be subject to regular State health inspections. She added that operators of skilled nursing facilities must comply with the Federal Medicare program's Five Star Quality Rating System.

Commissioner Donahue questioned whether the Planning Commission had the authority to recommend denial of this application based on health care concerns. He also expressed concern that the Commonwealth facility had received a one-star, or "much below average," rating and did not want such deficiencies to transfer to the new facility. Ms. Abrahamson replied that it was the County Attorney's opinion that, because the Zoning Ordinance required that all medical care facilities, including skilled nursing and assisted living facilities, be referred to the HCAB for a recommendation and report, the County had the authority to regulate beyond land use in these situations. She indicated, however, that staff could seek a written opinion from the County Attorney regarding the extent and testability of this authority.

Chairman Murphy asked for additional rebuttal remarks from Ms. Strobel, who said she believed that the HCAB ultimately recommended approval of the application, subject to the adoption of Proffer Number 16, which addressed its concerns regarding operational deficiencies. She reiterated that the Medicare inspections and ratings were not objective; however, she added that NVHI had not been satisfied with CCR's unsatisfactory compliance history and planned to investigate the criteria prescribed by the Medicare Five Star Quality Rating System to address operational concerns.

Commissioner de la Fe recalled Ms. Blum for additional remarks. She said that CMS contracted with each state to conduct onsite inspections to determine whether facilities met the minimum performance requirements on an annual basis; however, in the case where a facility was found to be performing poorly, state inspectors might audit it more frequently. She pointed out that professionals in every state conducted health inspections using empirically-based data while the quality ratings were developed using information generated from self-reported survey data.

There being no more speakers or closing comments from the applicant, Chairman Murphy called for concluding staff remarks from Ms. Abrahamson, who said she would invite the County Attorney to attend the scheduled decision only by the Planning Commission on the proposal.

There were no further comments or questions from the Commission; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Litzenberger for action on these cases. (A verbatim excerpt is in the date file.)

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Commissioner Litzenberger MOVED THAT THE PLANNING COMMISSION DEFER THE DECISIONS ONLY ON RZ/FDP 2012-SU-010 TO A DATE CERTAIN OF JANUARY 10, 2013, WITH THE RECORD REMAINING OPEN FOR WRITTEN AND ELECTRONIC COMMENTS.

Commissioners Alcorn and Flanagan seconded the motion which carried unanimously.

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RZ 2012-BR-003 AND FDP 2012-BR-003 – TARIQ KHAN –
Appls. to rezone from R-1 and WS to PDH-2 and WS to permit residential development with a density of 1.58 du/ac, a waiver of minimum district size, and approval of the conceptual and final development plans. Located on the E. side of Shirley Gate Road approx. 500 ft. N. of its intersection with Park Dr. on approx. 1.9 ac. of land. Comp. Plan Rec: 1-2 du/ac. Tax Map 56-4 ((6)) 1.
BRADDOCK DISTRICT. JOINT PUBLIC HEARING.

Keith Martin, Esquire, Tramonte, Yeonas, Roberts & Martin, PLLC, reaffirmed the affidavit dated August 6, 2012. There were no disclosures by the Commissioners.

Brent Krasner, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. He noted that staff recommended denial because, while the subject proposal was in general conformance with density recommendations of the Comprehensive Plan, it was not in conformance with many of the Residential Development Criteria or with the Planned Development District standards in the Zoning Ordinance.

Commissioner Hurley noted that neighbors adjacent to the proposed development had stated that they did not want a large home to be built on the site and added that either an R-2 or -3 District zoning would be an appropriate transition between those homes and the neighboring Cloisters of Fairfax ("the Cloisters") development.

Kristen Abrahamson, ZED, DPZ, pointed out that the proposed density, however, was not an issue, but rather the orientation of the development on the site. In addition, she noted that while the proposed architecture was consistent with the neighborhood, the development pattern was not. She acknowledged that the applicant had incorporated environmental initiatives that would benefit the Occoquan watershed, adding that the application site was the last parcel of land along Shirley Gate Road before the Occoquan aquifer. She further added that staff believed that only one additional lot would be appropriate.

In response to a question from commissioner Hurley, Ms. Abrahamson explained that after working diligently with the Cloisters to gain access to the proposed site on its northern border, the Cloisters had ultimately decided against it and the applicant instead decided on the proposed access via Shirley Gate Road. She noted, however, that the access route would be very difficult to change or improve should the need arise.

Mr. Martin stated that he and the applicant had worked with staff and incorporated all of the suggested pre-application changes. He added that he had met with representatives from the Cloisters prior to submitting the application to discuss annexing the proposed homes, but it never happened. He said that the proposal would provide 60 percent open space, significant tree preservation, and innovative and effective best management practices (BMP). He added that while the application had garnered the support of a subcommittee assigned to review it, the Braddock District Land Use Committee had ultimately decided against it. As a result, the applicant agreed on Wednesday, January 23, 2013, to redesign the proposed plan and reduce the number of houses from three to two, and to orient them to face Shirley Gate Road.

In response to questions from Commissioner Alcorn, Mr. Martin confirmed that the applicant had agreed yesterday to change the site plan. He added therefore that no site plan existed; however, Commissioner Hurley still wished to hold the public hearing and defer the decision only with the expectation that a revised site plan would be submitted.

Replying to questions from Commissioner Lawrence, Mr. Martin said that the stormwater outfall would be engineered to utilize BMPs, including rain baskets, adding that he would provide a clearer explanation during the deferral period.

Answering a question from Commissioner Hart, Ms. Abrahamson explained that the applicant could apply for either a P-District or a Special Exception with a waiver for minimum lot size, since the proposed site was the last lot before the Occoquan.

Commissioner Donahue expressed concern about holding a public hearing without having the revised sight plan and then deferring the decision only. A lengthy discussion ensued among the Commission and staff during which Ms. Abrahamson explained that a staff report addendum

would be prepared and disseminated for review during the deferral period. Commissioner Hall pointed out that the Commission often received last-minute revisions and deferred decisions with the record open for written comments. However, Commissioner Donahue noted that the public hearing process allowed the public to speak face-to-face with the Commission on current plans.

Chairman Murphy called the first listed speaker.

Greg Altieri, 4401 Shirley Gate Road, Fairfax, spoke in opposition to the proposal, stating that the Comprehensive Plan provided for mixed zoning that considered zoning based on population, type of use, and funding availability, he argued that a zoning change should occur only when there was a compelling reason to do so, e.g., to change residential land to park land. He said that residents had decided to live into this neighborhood fully understanding the surrounding zoning ordinances, codes, and/or homeowners association rules, as well as the fact that their homes faced Shirley Gate Road, which was a major commuter thoroughfare. He pointed out, however, that the ability to live in single family homes, either on one-acre lots or within the Cloisters, provided a balance for the residents, who could also enjoy the peace and quiet of a large, heavily-wooded, minimally-developed area with wildlife in the back. Mr. Altieri stated that the addition of another residence would alter the landscape and quality of life for the existing residents and said the Planning Commission's decision should not favor someone seeking to profit on the residents' lost expectation and degraded quality of life. With regard to the equity of the proposal, Mr. Altieri pointed out that residents would now have houses in their sight line instead of trees and added that their privacy would be imposed upon by vantage points that did not currently exist; therefore, while the applicant could double his investment through this application, the residents would gain nothing.

In response to a question from Chairman Murphy, Ms. Abrahamson demonstrated where Mr. Altieri's property was located. She also explained that although it was originally planned to be consolidated with the Cloisters, the property owner could develop the property by-right at the R-2 District.

Chairman Murphy explained to Mr. Altieri that the Mr. Khan could build a very large house on the property by-right, similar to a very large house on the opposite side of Mr. Altieri's if he wanted to.

Commissioner Hall also pointed out that because Mr. Khan's property was considerably larger than Mr. Altieri's, Mr. Khan could conceivably build a house that would be twice the size of that very large house.

Gaurav Chikara, 11319 Bulova Lane, Fairfax, aligned himself with Mr. Altieri's statement and spoke in opposition to the application. He expressed concern about the number of houses proposed, adding that more than one would negatively impact on the value of the surrounding properties. He was concerned about the proposed access in that it would be too narrow for emergency vehicles. He stated that several of the residents from the Cloisters were present and asked Commission members to consider their concerns before approving this application.

In reply to questions from Commissioner Hall, Ms. Abrahamson said that the Cloisters had been developed in 1999, adding that the previous zoning had been R-1. Commissioner Hall pointed out to Mr. Chikara that if his property had not been rezoned, his development would not exist. She further noted that while she might not agree with the applicant's current proposal for three homes, she felt that home builders fulfilled a need without necessarily being greedy.

Commissioner Lawrence pointed out that people would continue to come to the Washington Metropolitan Area as long as job growth continued. He acknowledged Mr. Altieri's remarks about the clearing of trees; however, he pointed out that the Mr. Khan could eliminate every tree on the site by right to build a house at least as big as the one on the other side of his home. He added that care must be taken to allow property owners' rights while at the same time maintaining balance. He reiterated that the Planning Commission and County staff would continue to work on the citizens' behalf to maintain a proper balance.

Shirley Thompson, 4339 Shirley Gate Road, Fairfax, noted that she lived next door to the subject property and acknowledged Mr. Khan's right to build a large house by-right. She added, however, that she would rather have something more compatible with the surrounding area and was willing to work with him to accomplish that.

Tarun Lall, 11325 Bulova Lane, Fairfax, stated that he would like to work with the developer regarding having trees planted between the Cloisters and the application site.

Mr. Martin stated that the applicant would submit a modified two-lot plan to staff under the current application request in a PDH-2 District. He added that a deferral period to Thursday, January 24, 2013, would provide the applicant and County staff ample time to prepare and distribute a staff report addendum.

Answering a question from Commissioner Hall, Mr. Martin confirmed that he had met with the homeowners adjacent to the proposal site prior to tonight's meeting. Ms. Thompson added that they had met to work out continued communications regarding the development on the site and the size of the proposed homes.

Commissioner Hurley thanked Mrs. Thompson and residents from the Cloisters for their continued involvement in this case and expressed her own concern regarding the access road to the site. She also suggested that the applicant consider filing an application for a Special Exception rather than a P-District.

There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Hurley for action on these items. (A verbatim excerpt is in the date file.)

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Commissioner Hurley MOVED TO CONTINUE THE PUBLIC HEARING ON RZ/FDP 2012-BR-003 TO A DATE CERTAIN OF JANUARY 24, 2013, PENDING STAFF REVIEW OF A

REVISED PLAN AND WITH THE RECORD REMAINING OPEN FOR WRITTEN AND ELECTRONIC COMMENTS.

Commissioners Lawrence and Hall seconded the motion which carried unanimously.

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The Commission went into recess at 11:08 p.m. and reconvened in the Board Auditorium at 11:27 p.m.

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CSP 2003-PR-022 – PULTE HOME CORPORATION – Appl.
under Sect. 12-210 of the Zoning Ordinance for approval of a
Comprehensive Sign Plan associated with RZ 2003-PR-022.
Located N. of Lee Hwy., W. of Nutley St., S. of Saintsbury Dr. on
approx. 50.14 ac. of land zoned PDH-12, PRM, PDH-16, and HC.
Tax Map 48-2 ((24)) B1; 48-3 ((49)) 2B, 2C1, 2C2, 2C3, 2E, 2F,
2G, 2H; 48-3 ((50)) 35, 36, 119-174; 48-4 ((28)) A, 1-34, 37-118,
and 175-218. PROVIDENCE DISTRICT. PUBLIC HEARING.

William Mayland, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff report, a copy of which is in the date file. He noted that staff recommended approval.

In response to questions from Commissioner Lawrence, Mr. Mayland described the signage but noted that the retail signage would be unknown and required some flexibility since it tended to change more often than the commercial. He added that the goal was to attain a balance of signage that provided good direction without overwhelming the site.

Answering a question from Commissioner de la Fe, Mr. Mayland confirmed that the tenant identification would be displayed on sign A1a., as shown on page 4 of the staff report.

Timothy Sampson, Esquire, Walsh, Colucci, Lubeley, Emrich & Walsh, PC, stated that the applicant concurred with all of the development conditions and added that the number of signs had been reduced during the application process. He noted that developing a sign plan for the subject site proved challenging because signs would be necessary to identify the commercial and residential uses, in addition to providing clear directions. He added that although the site was near a Metro Station, direct access to it was unavailable from Interstate 66 and Nutley street; therefore, clear and appropriate signage was extremely important to the commercial and residential interests at this location. He noted the challenge of planning signage for a site currently under construction, insofar as preparing for things that were still some years in the future. He added that some buildings had no architectural plans and would therefore be difficult to provide specific plans; however, he noted that the applicant had established the number of signs along with their locations, aspect ratios, and overall sign area. Mr. Sampson stated that the sign plan had the support of the County staff and requested the Planning Commission's approval.

Answering a question from Commissioner Lawrence, Mr. Sampson explained that the applicant had removed two of the directional signs, thereby providing only two proposed signs to direct users to the site from Saintsbury Drive and Lee Highway, respectively.

Commissioner Flanagan referenced page 17 in Part II of the MetroWest Comprehensive Sign Plan, located in Appendix 2 of the staff report, and expressed concern about the position of Signs A1 and A2, stating that they should be reversed.

Mr. Sampson stated that A2 was closer to the commercial core of the site in its current location, adding that A1 stood in a park-like setting as the entry feature to the project.

Chairman Murphy called the one listed speaker.

Lincoln Rhoads, 3013 Winter Pine Court, Fairfax, expressed concern about the proposed signs on Vaden and Saintsbury Drives and Vaden Drive and Lee Highway. He added that the sign on Saintsbury Drive would stand in front of an elder care building and therefore be misleading. He also noted that since there was a buffer on Lee Highway, no sign should be installed, adding that the proposed site would not be drivable, but walkable. He also noted his concern about the lack of information as to the location of residentially-zoned parking signs as well as the Providence District Supervisor's Office. Mr. Rhoads noted that the applicant had also proposed to put a directional sign to this site at the intersection of Saintsbury Drive and Nutley Street and said that it would set a bad precedent in the County by placing a sign so far from an application site. He stated that the proposed building signs should not be installed and questioned how effective they would be. In addition, Mr. Rhoads pointed out that a shopping mall existed nearby and added that residents could also go to Fairfax City for their shopping needs. (A copy of Mr. Rhoads's statement is in the date file.)

Chairman Murphy pointed out that building signs were considered so important that when Arlington County had proposed to disallow building signs, the Arlington County Economic Development Authority (EDA) stated, "if we do that, then we open the door to send all of our business to Fairfax County," thereby halting any further attempts to do so. He added that the Fairfax County EDA concurred with Arlington County's assessment.

Commissioner Lawrence told Mr. Rhoads that he would meet with the applicant and County staff to review all of the suggestions in his written statement, since he could not discuss them all in front of the Commission. He agreed with Chairman Murphy about the building signs, adding that they would help drivers on the surrounding roads find the site. He also noted that while it could be difficult to determine the appropriate number of signs on a site, it would be better to have too many than not enough, and therefore ensure that no one should get lost.

There being no more speakers, Chairman Murphy called for a rebuttal statement from Mr. Sampson, who reiterated his previous remarks regarding the comprehensive nature of the site in its mixed use and the importance of balance between the uses. He stated that the applicant had struck a good balance, again noting staff's support and requesting the Planning Commission's support.

There were no further comments or questions from the Commission and staff had no closing remarks; therefore, Chairman Murphy closed the public hearing and recognized Commissioner Lawrence for action on these items. (A verbatim excerpt is in the date file.)

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Commissioner Lawrence MOVED THAT THE PLANNING COMMISSION APPROVE CSP 2003-PR-022, SUBJECT TO THE PROPOSED DEVELOPMENT CONDITIONS DATED DECEMBER 3, 2012.

Commissioner Alcorn seconded the motion which carried unanimously.

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SE 2012-HM-009 – INSITE REAL ESTATE INVESTMENT PROPERTIES, LLC – Appl. under Sects. 3-104 and 4-504 of the Zoning Ordinance to permit child care center and nursery school with a total enrollment of 206 children. Located in the N.W. quadrant of the intersection of Centreville Road and West Ox Road on approx. 1.52 ac. of land zoned C-5, R-1, and SC. Tax Map 25-1 ((1)) 18F. HUNTER MILL DISTRICT. PUBLIC HEARING.

David S. Houston, Esquire, Pillsbury, Winthrop, Shaw, Pittman, LLP, reaffirmed the affidavit dated November 20, 2012. There were no disclosures by the Commissioners.

St. Clair Williams, Zoning Evaluation Division (ZED), Department of Planning and Zoning (DPZ), presented the staff report, a copy of which is in the date file. He noted that staff recommended approval of the application.

In response to questions from Commissioner de la Fe, Martha Coello, Fairfax County Department of Transportation (FCDOT), said that although Centreville Road had been widened, no bicycle lane was ever built.

Commissioner Hart referenced the memorandum in Appendix 6 from Angela Rodeheaver, dated November 7, 2012, and asked about the penultimate bullet which would allow for smaller than normal parking spaces. He asked about the location of those spaces and questioned why staff would allow them. Ariel Yang, FCDOT, explained that there were no specifics on the spaces but that they could be approved by the Department of Public Works and Environmental Services (DPWES) if they were needed, adding that the applicant would need to follow up with DPWES during the site plan review phase. When Commissioner Hart asked why smaller spaces would be allowed, Kristen Abrahamson ZED, DPZ, explained that DPWES would permit a vehicle to hang over landscaped areas, so long as nothing is obstructed, in order to provide more space for a travel aisle.

Commissioner Hart asked if the proposed stormwater system was included in the current moratorium that had been declared recently. Mr. Williams explained that the proposed system was not problematic, but added that it would be evaluated during the site plan review phase.

Commissioner Hurley expressed concerns about the imposition of several of the development conditions. She said that Development Condition Number 7, regarding the maximum number of staff was too rigid and should be more flexible. She added that Development Condition Number 8, regarding hours of operation should be expanded to allow parents to drop off their children and get to work on time. She stated that Development Condition Number 9, regarding drop off and pick up times, dictated when parents should pick up their children. She added that the number of bicycle racks in Development Condition Number 14, should be minimal, pointing out that commuters generally did not ride to work on bicycles with their children in tow.

Mr. Williams explained that the development conditions were proposed by the applicant, and noted that only two bicycle racks had been proposed and were intended for employee use.

In reply to questions from Commissioner Migliaccio, Mr. Williams stated that staff had no concerns with the queuing or circulation on-site, adding that the parking measures for staff members helped to alleviate congestion.

Eric Pedersen, Insite Real Estate Investment Properties, LLC, noted that the Hunter Mill Land Use Committee supported the application. He stated that Insite was the contract purchaser of the property and had teamed up with the Gardner School, who was looking to expand to the Washington DC Metropolitan area. He explained that the subject site would be ideal because it was located on a major road close to mass transit near both residential and commercial areas. He said it would be an appropriate transitional use and provided a brief description of the building and play areas. With regard to traffic, Mr. Pedersen stated that the existing level of service at the stoplight at West Ox and Centreville Roads would remain unchanged, adding that striping would be increased on West Ox road to allow additional cars to queue. He added that a traffic assessment had been prepared according to the guidelines set forth by the Institute of Transportation Engineers (ITE), and pointed out that the day care center's drop-off and pick-up schedule would be staggered over a two-hour time period. He detailed the specific drop-off procedure, noting that parents would need to escort children in and punch in a code, thereby ensuring security. He added that approximately 20 parking slots would be available during peak drop-off; hence, there would not be issues with internal circulation. He also added that the traffic report demonstrated that the entrance would not be blocked by traffic.

Answering questions from Commissioner Hurley, Mr. Pedersen confirmed that the school would accommodate children through age five. He stated that multiple children could be dropped off at one time and reiterated that parents must escort their children into the classroom to ensure safety and security.

Chairman Murphy called the first listed speaker.

Thomas Gilmore, 2746 Copper Creek Road, Herndon, spoke in opposition to the application, citing traffic and safety issues. He stated that since Centreville Road had been widened, the residents of Copper Crossing, Mountain View, and Mustang Crossing have had only one available exit for left turns at the stop light at West Ox and Centreville Roads. He noted that the access route near Floris Elementary School might be available; however, it was dangerous because the traffic speeds on Centreville Road were higher. He stated that there was currently a bottleneck at the traffic light that would only become worse with the addition of a daycare center. (A copy of Mr. Gilmore's statement is in the date file.)

Robert Sturm, Representing Copper Crossing, 2705 Copper Creek Road, Herndon, aligned himself with the previous speaker in opposition to the application. He added that a large number of vehicles accessed the community via West Ox Road to the neighborhood, creating gridlock. He said that residents would experience severe delays trying to get out of the neighborhood in the morning at the stop light at West Ox and Centreville Roads. He pointed out that when Centreville Road was widened, the Virginia Department of Transportation (VDOT) had agreed to extend the green light times; however, the timing was shortened, and now on average, a maximum of three vehicles passed through the light during each cycle. He stated that this development would exacerbate the current problems, making it impossible for residents to seek alternatives within the neighborhood. Mr. Sturm also pointed out that the additional traffic would create problems for community children or school safety patrols. He said that the center would adversely impact the community and suggested that another traffic study be done. He described alternate routes that residents would use as a result of the additional traffic, thereby causing additional risk to the children at the elementary school. He pointed out that while he agreed with the first bullet on page 9 of the staff report regarding issues with queuing issues, he did not agree with the statement in the second bullet that "a queue of 91 feet in the left turn lane...would not block the proposed site entrance" and therefore would not significantly impact the surrounding local roadways. He also said that the Special Exception should not be permitted because the community was residential and thus commercial entities should not be permitted. He added that the residents had not consented to this application and therefore would not be held liable for events subsequent to its approval. He said that this application was not in the community's best interest and requested that the Planning Commission deny it.

John Stevens, 13505 Copper Ridge Drive, Herndon, expressed concern about the traffic and the total of 923 vehicle trips per day, noting that upon examination the number could not be verified. Citing the first bullet on page 9 of the staff report, he noted that FCDOT and VDOT had raised concerns about vehicular circulation and queuing with 206 students, and questioned the applicant's ability to ensure that all students and staff would be able to be in the building and operating within the stated time period and with so few available parking slots. He referenced page 4 of the staff report, Paragraph 4., regarding the location of childcare facilities, and requested that additional development conditions be added as follows: "All construction-related vehicles must utilize the West Ox/Centreville Road intersection as the access to the site. No such vehicles may use Floris Street, Mustang Drive, or Copper Ridge, for such access to the site. In addition, all vehicles leaving the site must be required to turn left on West Ox and leave via the same intersection. In addition, the Planning Commission should convey to the Board of

Supervisors that the Gardner School must ensure that all vehicle trips to and from the school could be reasonably controlled by the Gardner School to be required to use the same intersection and not the community streets. And as an ancillary requirement the school must ensure that all delivery vehicles use the onsite parking spaces only.” (A copy of Mr. Stevens’ statement is in the date file.)

Chad Thompson, Representing Copper Crossing South Residents Association, 2752 Copper Creek Road, Herndon, also spoke in opposition to the application. He questioned whether VDOT had reviewed the traffic analysis, adding that the residents were considering a peer review of the analysis and wanted to know VDOT’s comments. He said that the proposal violated the Comprehensive Plan by providing a Special Exception use in a residential community, thus causing conflicts with the surrounding neighborhood. He also questioned the staggered pick-up/drop-off schedule and said it would not address the traffic circulation issues or vehicle stacking. In addition, Mr. Thompson asked if the Fairfax County Fire Department had been contacted about conflicts with the station house across from the proposal site.

Robert Humphrey, 2646 West Ox Road, Herndon, echoed the previous speakers’ opposition to the application, citing concerns with the accuracy of the traffic impact analysis, counts, and the impact of the daycare center on the community and the existing residential traffic. He stated that during two traffic counts he had taken on two different mornings, the total counts were as follows: morning one: 26 percent higher than the applicant’s assessment, between 6:00 and 9:00 a.m., and; morning two: 55 percent higher than the applicant’s assessment, between 8:00 and 9:00 a.m. He also questioned the validity of doing the count on September 11, when there was considerably less traffic than usual. He added that he had observed higher maximum queues than that noted by the applicant and stated that the number of trips he had calculated totaled 1,284. He added that the traffic related to the Floris Elementary School was substantial and should also be taken into account. (A copy of Mr. Humphrey’s statement is in the date file.)

In response to questions from Commissioner Lawrence, Mr. Humphrey confirmed that emergency vehicles had responded to calls on both the days he collected data. He explained how the vehicles maneuvered through the traffic on the roads and at the stop light and said it could become problematic if there were seven or more vehicles in line.

Thomas Quackenbush, 2641 West Ox Road, Herndon, requested that the application be denied. He said that the day care center would be located on a very busy corner that was congested most mornings and afternoons with heavy traffic from the nearby elementary school mixing with Centreville rush hour traffic. He also noted that the site was located near the one intersection controlled by a traffic light and would only add more congestion to an already overloaded location. He pointed out that the neighborhood children walk to school and would be faced with additional motorists unfamiliar with the neighborhood. He echoed previous remarks that the daycare center should not be sited in a residential community and added that six other daycare entities were nearby in commercially zoned areas.

Johan Duba, 13509 Copper Ridge Drive, Herndon, spoke in opposition to the proposal and said that the traffic would adversely impact the neighborhood. He added that additional homes should be built in the area rather than the daycare.

David Tiss, 2728 Copper Creek Road, Herndon, also spoke in opposition to the proposal and noted that the staggered drop-times would not be viable or enforceable. He added that there was nothing in the report addressing evening or weekend hours, particularly for maintenance or open house meetings, and questioned how that might impact the neighborhood. He also questioned the size of the play area, given the proposed number of children. He aligned himself with the previous speaker remarks regarding the daycare not being allowed in a residential community. He added that the proposed site seemed to have many restrictions and was being jammed into a space too small for its needs.

There being no more speakers, Chairman Murphy called for a rebuttal statement from Mr. Pedersen, who noted that the peak pick-up and drop-off times for the day care center and the elementary school differed by over an hour and therefore would not conflict. He described the staggered drop off, noting that staff members also arrived at staggered times, thereby ensuring that the parking lot would continually have approximately 15 to 20 slots available for parents to drop off children. He said that although the parking stalls would be reduced, they still met the requirements set forth in the *Virginia State Code* and would allow a wider travel aisle through the parking lot. He added that although the play area could accommodate up to 100 children, a considerably smaller number would be using it at any given time. In addition, Mr. Pedersen pointed out the Gardner School was a good neighbor and often held clothing drives and promoted humanitarian values.

Responding to questions from Commissioner Hall, Mr. Pedersen confirmed that parents would park their cars to escort their children into the school, noting that the applicant had successfully run similar centers elsewhere with slightly fewer students. Commissioner Hall suggested that the applicant consider drop-off alternatives to escorting the children inside and questioned the viability of the school in this location with the proposed number of students.

Replying to a question from Commissioner Migliaccio, Ms. Yang stated that the existing level of service for West Ox Road to eastbound Centreville Road was "E" and would remain so after construction of this center.

William Johnson, Transportation Consultant, MJ Wells & Associates, Inc., stated that the number of trips were forecast based on the ITE, the accepted current national standard, accepted by FCDOT and VDOT. He reiterated the applicant's intent to stagger the drop-off and pick-up times to alleviate the traffic and pointed out that multiple children could be dropped off at once, pointing out that 206 children would not translate into 206 separate trips. He stated that while the green light at the intersection at West Ox and Centreville Roads was allocated to Centreville Road, detectors would change the light when cars began to queue up on West Ox Road so that they could process through.

Commissioner Hurley commented that infants and toddlers would need to be escorted inside the center, regardless of whether drop-off/pick-up alternatives were found.

Answering questions from Commissioner Lawrence, Mr. Johnson explained that the traffic impact analysis had been performed on September 11 because it was the earliest date it could be performed prior to a meeting of the Hunter Mill Land Use Committee. When Commissioner Lawrence asked if specific protocols were followed, Mr. Johnson confirmed that the date met the criteria of being a Tuesday, Wednesday, or Thursday on a week when there were no holidays so that the public schools would be in session.

In response to questions from Commissioner Sargeant, Mr. Johnson said that the largest queue of vehicles measured during the traffic assessment was five vehicles in the left-hand turn lane and four vehicles in the right turn lane, both occurring between 8:00 and 9:00 a.m. During the ensuing discussion, Commissioner Sargeant expressed concern about the daycare traffic adding to the current congestion on Centreville Road. Mr. Johnson explained that the traffic analysis demonstrated that enough space existed between the Centreville Road intersection and the daycare center entrance to avoid any backups.

Commissioner Migliaccio expressed concern about the staggered pickup/drop off and questioned how the site would manage to take in 206 children and staff members in a timely manner with such a small parking lot.

Commissioner Sargeant suggested a review of sites with similar layouts and enrollment for comparative analysis. Martha Coello, FCDOT, said that she would provide the Commission with the appropriate information.

In response to a question from Commissioner Sargeant, Ms. Abrahamson noted that C-5 District retail uses that could be substituted in place of the daycare center might include a 7/11, but also pointed out that a rezoning was not required to accommodate the daycare center. Commissioner Sargeant noted that while the traffic was of key importance, it was also important to note what alternative uses might be considered for this site, given the split zoning.

Answering questions from Commissioner Flanagan, Ms. Coello explained that FCDOT staff had initially been concerned with the traffic circulation; however, that issue had been resolved. She added that while staff might be concerned with the number of employee-designated spaces, they believed that the staggered timing would alleviate stacking issues. Ms. Abrahamson added that staffed hoped that the applicant could better explain its parking and circulation plan during the deferral period.

Answering additional questions from Commissioner Flanagan, Ms. Abrahamson said that a smaller footprint might provide more area onsite, although not necessarily. Mr. Williams and Ms. Yang also explained that the waiver of the eight-foot wide trail had been provided for the dedication of a right-of-way for the construction of a future bicycle lane.

December 5, 2012

There were no further comments from the Commission of staff; therefore, Chairman Murphy closed the public hearing and recognized Commissioner de la Fe for action on this item. (A verbatim excerpt is in the date file.)

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Commissioner de la Fe MOVED THAT THE PLANNING COMMISSION DEFER THE DECISION ONLY ON SE 2012-HM-009 TO A DATE CERTAIN OF JANUARY 10, 2013, WITH THE RECORD REMAINING OPEN FOR WRITTEN AND ELECTRONIC COMMENTS.

Commissioner Alcorn seconded the motion which carried unanimously.

Commissioner de la Fe MOVED THAT THE PLANNING COMMISSION REQUEST THAT THE BOARD OF SUPERVISORS DEFER ITS PUBLIC HEARING ON THIS CASE UNTIL AFTER IT HAS RECEIVED THE COMMISSION'S RECOMMENDATION.

Commissioner Alcorn seconded the motion which carried unanimously.


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The meeting was adjourned at 1:52 a.m.
Peter F. Murphy, Jr., Chairman
Janet R. Hall, Secretary

Audio and video recordings of this meeting are available at the Planning Commission Office, 12000 Government Center Parkway, Suite 330, Fairfax, Virginia 22035.

Minutes by: Jeanette Nord

Approved on: December 4, 2013



John W. Cooper, Clerk to the Fairfax County
Planning Commission